

REMARKS

Claims 1-27 are pending in this application. By this response, Applicants have amended several claims without introducing new matter. Claims 1-27 remain pending.

Election/Restriction

The Office Action has required restriction among the two allegedly patentably distinct inventions below:

- I. Claims 1-26 drawn to a method for identifying a modulator of a G protein-coupled receptor comprising an endogenous human ARE-2 polypeptide, classified in class 435, subclasses 4 and 6.
- II. Claim 27, drawn to a method of modulating the functionality of a G protein-coupled receptor comprising an endogenous human ARE-2 polypeptide, classified in class 435, subclass 4.

In response to the restriction requirement, Applicants hereby elect Group I, claims 1-26, with traverse. In doing so, Applicants reserve the right to pursue the subject matter of the non-elected claims in one or more divisional or continuing application(s). Applicants respectfully traverse the restriction requirement.

As will be appreciated, even if the Office considers the groups of claims to be patentably distinct, §803 of the M.P.E.P. mandates *two* criteria for a proper requirement for restriction: 1) the inventions must be independent or distinct; *and 2) there must be a serious burden on the examiner.* For purposes of initial restriction, a serious burden on the examiner may be *prima facie* shown if the examiner shows by appropriate explanation either separate classification, separate status in the art, or a different field of search as defined in M.P.E.P. §808.02. Significantly, however, this *prima facie* burden has not been met. Indeed, the Office Action has not shown separate status in the art or a requirement for a different field of search – indeed,

Groups I and II are in the same class, class 435 and even share a subclass, subclass 4.. Thus, it is not clear how searching these groups in the same class and subclass would place a serious burden on the examiner. For this reason, we believe these groups should be rejoined.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the restriction requirement.

Claim Amendments

Claims 1, 2, 3, 4, 9, 10, 11, 12, 15, and 19 have been amended to include reference to those endogenous human ARE-2 polypeptides which are encoded by a polynucleotide that hybridizes under stringent conditions to the complement of SEQ ID NO:19. Support for these amendments is found in the specification, particularly in Example 3 on page 26. No new matter has been introduced.

The Commissioner is hereby authorized to charge any fee or underpayment thereof or credit any overpayment to deposit account no. 50-1275.

Early reconsideration and allowance of all pending claims is respectfully requested. The examiner is requested to contact the undersigned attorney if an interview, telephonic or personal, would facilitate allowance of the claims.

Respectfully submitted,

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